

To the Members of the California State Assembly:

I am returning Assembly Bill 849 without my signature because I do not believe the Legislature can reverse an initiative approved by the people of California.

I am proud California is a leader in recognizing and respecting domestic partnerships and the equal rights of domestic partners. I believe that lesbian and gay couples are entitled to full protection under the law and should not be discriminated against based upon their relationships. I support current domestic partnership rights and will continue to vigorously defend and enforce these rights and as such will not support any rollback.

California Family Code Section 308.5 was enacted by an initiative statute passed by the voters as Proposition 22 in 2000. Article II, section 10 of the California Constitution prohibits the Legislature from amending this initiative statute without a vote of the people. This bill does not provide for such a vote.

The ultimate issue regarding the constitutionality of section 308.5 and its prohibition against same-sex marriage is currently before the Court of Appeal in San Francisco and will likely be decided by the Supreme Court.

This bill simply adds confusion to a constitutional issue. If the ban of same-sex marriage is unconstitutional, this bill is not necessary. If the ban is constitutional, this bill is ineffective.

Sincerely,

Arnold Schwarzenegger